

Message Text

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ORIGIN AF-10

INFO OCT-01 ISO-00 EB-08 L-03 COME-00 FTC-01 FEA-01
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FM SECSTATE WASHDC
TO AMEMBASSY LAGOS

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E.O. 11652: N/A

TAGS: BBAK, BDIS, ENRG, NI

SUBJECT: COMPENSATION CLAIM BY CRUTCHER RESOURCES

REF: 74 LAGOS 1310

1. SUMMARY. CRUTCHER RESOURCES CORP. REQUESTS ASSISTANCE REGARDING ITS CLAIM FOR COMPENSATION FROM FMG FOR THE DISSOLUTION OF A PARTNERSHIP ENTERED INTO IN 1972 FOR THE CONSTRUCTION AND OPERATION OF A LIQUIFIED PETROLEUM GAS (LPG) PLANT IN PORT HARCOURT. END SUMMARY.

2. D. DALE WOOD (PRESIDENT, CRUTCHER RESOURCES CORP. OF HOUSTON), SAM OLIPHANT (PRESIDENT, GUADALUPE GAS PRODUCTS CORP., WHOLLY-OWNED SUBSIDIARY OF CRUTCHER), WILLIAM O. STINSON AND JOE MONTLLOR (BOTH WASHINGTON REPRESENTATIVES OF CRUTCHER) MET APRIL 5 WITH DEPOFFS REPRESENTING AF/W, EB/IFD/OIA, AND L/AF TO REQUEST USG ASSISTANCE WITH LONG-LIMITED OFFICIAL USE

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STANDING CRUTCHER/GUADALUPE CLAIM AGAINST FMG. THE VISITORS LEFT FIVE-PAGE MEMO AND COPIES OF 22 DOCUMENTS GIVING DETAILS OF CASE. BOUND COPY OF ALL DOCUMENTS POUCHED EMBASSY APRIL 6, ATTENTION E/C COUNS CAHILL.

3. ACCORDING CRUTCHER/GUADALUPE, AGREEMENT FOR LPG PLANT IN PORT HARCOURT NEGOTIATED WITH FMG DURING THE CIVIL WAR

AND SIGNED FEBRUARY 2, 1972. NIGERIAN GAS PRODUCTS CORP. (NGPC) CREATED AS JOINT VENTURE BETWEEN FMG (60) AND GUADALUPE (40). GUADALUPE HAD MANAGEMENT RESPONSIBILITY. FMG NEVER PUT UP ITS SHARE OF CAPITAL, BUT GUADALUPE STARTED IN GOOD FAITH TO CARRY OUT THE PROJECT, INCURRING EXPENSES ON OWN ACCOUNT. MINISTRY OF PETROLEUM RESOURCES (MPR), AT THAT TIME PART OF MINISTRY OF MINES AND POWER, THEN SOUGHT TO MODIFY THE AGREEMENT BY INCLUDING THE PROCESSING OF METHANE AND ETHANE AS WELL AS LPG. GUADALUPE BROUGHT IN HOUSTON NATURAL GAS AND DOW CHEMICAL CO., BUT MPR NEVER AGREED TO THE COMPANIES' PROPOSALS FOR PROCESSING METHANE AND ETHANE. EVENTUALLY, ON AUGUST 12, 1974, FEDERAL MINISTRY OF JUSTICE NOTIFIED GUADALUPE THAT FMG UNABLE CONTINUE THE JOINT VENTURE. MINJUSTICE LETTER OF THAT DATE (TAB 17 OF DOCUMENTS POUCHED TO LAGOS) SAYS FMG "WILLING COMPENSATE (GUADALUPE) FOR SUCH LOSSES AS MAY HAVE BEEN OCCASIONED THEM BY THE EXPEDIENCY OF THE FMG TERMINATING THE RELATIONSHIP WITH THEM."

4. CRUTCHER/GUADALUPE CLAIM IS RECOVERY OF ACTUAL COSTS (\$1,275,537) PLUS GUADALUPE'S SHARE OF PROJECTED NPGC PROFITS FOR TEN YEARS (\$10,965,137). (BOTH FIGURES HAVE BEEN QUESTIONED BY FMG.) SETTLEMENT WOULD INCLUDE DISSOLUTION OF NGPC, THUS PRECLUDING ANY THOUGHT THAT FMG HAD "NATIONALIZED" SHAREHOLDINGS OF A US COMPANY.

5. AFTER SERIES OF MEETINGS, GUADALUPE'S NIGERIAN LAWYER (CHIEF GODFREY AMACHREE) REPORTEDLY OBTAINED ORAL AGREEMENT LIMITED OFFICIAL USE

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OF THE THEN ATTORNEY GENERAL AT END OF 1975 OR BEGINNING 1976 TO SUPPORT REDUCED CLAIM OF \$2.5 MILLION. CRUTCHER/GUADALUPE AUTHORIZED AMACHREE TO ACCEPT \$2.5 MILLION IF ACTUALLY OFFERED. MINJUSTICE WROTE AMACHREE APRIL 23, 1976 (SEE TAB 6), POINTING OUT THAT \$2.5 MILLION WAS THE ATTORNEY GENERAL'S OWN VIEW AND THEREFORE NOT A COMMITMENT ON BEHALF OF FMG. MINJUSTICE LETTER ALSO SAYS "SITUATION IN THE COUNTRY AT THE MOMENT. . .DOES NOT FAVOUR INTRODUCTION OF THIS TYPE OF CLAIM," AND ATTORNEY GENERAL "EAGERLY AWAITING A MUCH MORE FAVOURABLE OPPORTUNITY TO PUT HIS SUGGESTION FORWARD," PRESUMABLY TO THE FEDERAL EXECUTIVE COUNCIL (FEC).

6. FOLLOWING ADVICE OF AMACHREE AND HIS FMG CONTACTS, CRUTCHER/GUADALUPE HAVE REFRAINED FROM FILING SUIT OR SUBMITTING CLAIM TO ARBITRATION. THEY FINALLY INSTRUCTED AMACHREE TO WRITE AUGUST 3, 1976, LETTER (TAB 4) GIVING NOTICE OF THEIR INTENTION TO REFER THE MATTER TO ARBITRATION BY THE INTERNATIONAL CENTER FOR SETTLEMENT OF INDUS-

TRIAL DISPUTES (ICSID), BUT MATTER HAS IN FACT NOT YET BEEN SUBMITTED TO ICSID. RECEIVING NO REPLY FROM FMG,

AMACHREE LAID OUT WHOLE MATTER IN PETITION DATED DECEMBER 21, 1976 (TAB 1), TO HEAD OF STATE.

7. CRUTCHER/GUADALUPE REPS SAY THAT THEY HAVE HEARD NOTHING MORE TO DATE- THEY HAVE APPARENTLY HAD NO DIRECT CONTACT WITH FMG FOR MANY MONTHS, HAVING HAD NO OTHER BUSINESS TO TAKE THEM TO NIGERIA (OILFIELD SUPPLY AND WATER WELLDRILLING COMPANIES WERE SOLD OFF WHEN THE LPG DEAL WENT SOUR) AND CHOOSING, SO FAR, TO RELY ON CHIEF AMACHREE. THEY CONSIDER THE MATTER ENTIRELY IN THE HANDS OF MINJUSTICE. AMACHREE HAS APPARENTLY HAD NO FURTHER CONTACT WITH MPR SINCE THE COUP OF JULY 29, 1975, AND SUBSEQUENT DISMISSAL OF PERMSEC ASIODU (SEE TAB 12).

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8. CRUTCHER/GUADALUPE REQUESTS DEPARTMENT/EMBASSY ADVICE AND ASSISTANCE. DEPOFFS CONTRIBUTED SOME OBSERVATIONS, WHICH HAD APPARENTLY NOT YET BEEN FULLY APPRECIATED BY CRUTCHER/GUADALUPE, REGARDING CHANGES OF PERSONNEL IN THE TWO RELEVANT MINISTRIES AND POLITICAL ATMOSPHERE AFFECTING THE INTERESTS OF US ORGANIZATIONS. (IN DEPARTMENT'S VIEW, THESE FACTORS MAY LARGELY EXPLAIN THE LONG DELAY IN RESOLUTION OF THE CASE.)

9. IT WAS AGREED AT THE APRIL 5 MEETING THAT DEPARTMENT WOULD REQUEST EMBASSY TO INQUIRE AT THE MINISTRY OF JUSTICE INTO PRESENT STATUS OF THE CASE. CRUTCHER/GUADALUPE AUTHORIZED EMBASSY TO CITE ANY RELEVANT DOCUMENTS, INCLUDING THE DECEMBER 21, 1976, PETITION TO THE HEAD OF STATE, AND SAID THEY WOULD WELCOME DISCUSSION OF THE CASE BY THE AMBASSADOR OR OTHER EMBOFF WITH THE ATTORNEY GENERAL OR OTHER HIGH OFFICIAL IF APPROPRIATE OCCASION ARISES. CRUTCHER/GUADALUPE RECOGNIZED THAT USG CANNOT, AT LEAST NOT AT THIS TIME, PASS JUDGMENT ON THE MERITS OF THE CLAIM AND THAT THE EMBASSY CANNOT NEGOTIATE ON THEIR BEHALF. COMPANY REPS SAID THEY COULD VISIT NIGERIA ANY TIME FMG WILLING DISCUSS THEIR CLAIM.

10. CRUTCHER/GUADALUPE REPS SAID AMACHREE HAS BEEN PAID NOTHING TO DATE FOR HIS MANY SERVICES WITH RESPECT TO THIS CLAIM. HE WILL RECEIVE SIZABLE COMMISSION WHEN THE CLAIM IS SATISFACTORILY RESOLVED (WHETHER HE IS RESPONSIBLE OR NOT). CRUTCHER/GUADALUPE NEVERTHELESS EXPRESSED SOME MISGIVINGS ABOUT VIGOR WITH WHICH HE HAS PURSUED THIS MATTER. COMPANY REPS ASKED THAT EMBASSY ATTEMPT OBTAIN INDEPENDENT EVALUATION OF WHERE THE MATTER STANDS WITHOUT RPT WITHOUT

DISCUSSING IT WITH AMACHREE. THEY WOULD ALSO APPRECIATE
ANY VIEWS EMBASSY MAY HAVE ABOUT AMACHREE'S PERFORMANCE.

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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
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